IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 171/2007

NAWAL KISHORE KUMAWAT Vs. SMT. MAMTA DEVI

DATE: 26.02.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. Subhash Jain for the petitioner.

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The present criminal revision petition under Section 397 r/w Section 401 Cr.P.C. is preferred by the petitioner-husband against the judgment dated 11.01.2007 passed by the Family Court No.1, Jaipur in Case No. 38/2006, by which the application of the respondent-wife moved under Section 127 Cr.P.C. has been allowed and maintenance of Rs. 400/- per month granted earlier has been enhanced to Rs. 800/- per month.

Learned counsel appearing for the petitioner submits that the petitioner is only earning Rs. 1,600/-, out of which Rs. 800/- has been granted as maintenance which is excessive. He further submits that the petitioner after getting divorce decree has married again and is having children and old mother also and it is very difficult to maintain the family within Rs.

800/-. Salary certificate is also shown.

Be that as it may, since it is admitted fact that the wife has not remarried after divorce decree and she is entitled to get the maintenance, therefore, the Court below has correctly assessed the income of the petitioner and after assessing the income, granted only Rs. 800/- per month as maintenance which cannot be said to be excessive. Merely because the petitioner remarried and is having a child also, does not curtail the right of the divorcee wife.

In view of these facts, I find no illegality or error apparent on the face of the record in the impugned judgment dated 11.01.2007 passed by the Family Court No.1, Jaipur and the same requires no interference whatsoever by this Court.

Consequently, the revision petition fails and the same is hereby dismissed.

(K.S. RATHORE),J.

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